

(N. J. 76.)

ADULTERATION OF OATS.

(AS TO PRESENCE OF BARLEY.)

In accordance with the provisions of section 4 of the Food and Drugs Act of June 30, 1906, and of regulation 6 of the rules and regulations for the enforcement of the act, notice is given that on the 18th day of February, 1909, in the district court of the United States for the northern district of Georgia, in a proceeding of libel for seizure and condemnation of 200 bags of adulterated oats; that is to say, oats with which barley had been mixed and packed, wherein the United States was libelant and Alex C. Harsh & Co., Nashville, Tenn., were claimants, the said claimants having entered into a stipulation of facts admitting the allegations of the libel, the court adjudged the oats adulterated and rendered its decree in substance and in form as follows:

IN THE DISTRICT COURT OF THE UNITED STATES, EASTERN DIVISION, NORTHERN DISTRICT OF GEORGIA, NOVEMBER TERM, 1908.

THE UNITED STATES	}	No. ——. Libel in rem.
vs.		
TWO HUNDRED BAGS OATS.		
Alex C. Harsh & Company, <i>Claimants.</i>		

ORDER.

Now, on this day this cause coming on for hearing on an agreed stipulation and consent of the parties by and between John W. Henley, assistant United States attorney for the northern district of Georgia, and Alex. C. Harsh, a member of and representing the firm of Alex C. Harsh & Company, and the cause being submitted by the parties hereto upon the pleadings and admissions of the intervening claimant, Alex C. Harsh & Company, and the said Alex C. Harsh & Company, claimants, as aforesaid, having appeared in court and waived the time and place of hearing, admitted the allegations and charges contained in said libel of information, and having consented in writing that a final decree be made in said case, and having consented that the said two hundred bags of oats named in said libel of information be condemned by decree of this court, as provided for in section 10 of the act of Congress of June 30, 1906, known as the Pure Food Law.

Wherefore it is considered, ordered, adjudged, and decreed by the court that the United States marshal shall label and brand said bags containing said oats as "Barley and White Oats Mixed;" that the said marshal shall advertise and sell said oats as provided by law and shall, out of the proceeds of said sale, pay the costs and pay the remainder, if any, into the Treasury of the United States, as provided in section 10 of said act of Congress: *Provided, however,* That the said Alex C. Harsh & Company, interveners herein, upon the payment of all the costs of this libel, including the costs of seizure, removal, storage, and all expenses incurred therein, and upon the execution of a good and sufficient bond, in the sum of \$500.00, conditioned that the said

Alex C. Harsh & Company shall label said goods in accordance with the judgment of this court, as herein expressed, and further conditioned that they will not sell or dispose of said barley and white oats mixed in violation of the laws of the United States, or the laws of any State, Territory, District, or insular possession of the United States, and shall have the right to the possession of said goods now in the possession of the United States marshal or his deputy, and the said United States marshal and his deputies are hereby directed to deliver the said 200 bags or such part thereof of said oats as were seized by him, and now in his possession, to the said Alex C. Harsh & Company or their duly authorized agents upon the execution and delivery of the aforesaid bond and the payment of the aforesaid costs within twenty days from this date.

This February 18, 1909.

WM. T. NEWMAN, *U. S. Judge.*

The facts in the case were as follows:

On or about February 9, 1909, T. G. Hudson, State commissioner of agriculture of Georgia, acting under authority of the Secretary of Agriculture of the United States in accordance with regulation 3 of the rules and regulations for the enforcement of the Food and Drugs Act of June 30, 1906, found in the possession of the Southern Railway Company at Athens, Ga., two hundred 5-bushel sacks of a product billed and sold as “#2 White Oats,” which had been shipped by Alex C. Harsh & Co., from Nashville, Tenn., to Epps-Wilkins Co., Athens, Ga., on or about January 28, 1909. An examination of the oats by a collaborating chemist of the United States Department of Agriculture disclosed that barley had been added to the extent of 54 per cent of the whole. It was evident that the product was adulterated within the meaning of section 7 of the act, for the reason that barley had been substituted in part for oats, and such substitution had reduced and lowered the quality of the grain. Accordingly, the facts were reported by Commissioner Hudson to the United States attorney for the northern district of Georgia, and libel for seizure and condemnation was duly filed, with the result hereinbefore stated.

F. L. DUNLAP,
GEO. P. McCABE,

Board of Food and Drug Inspection.

Approved:

JAMES WILSON,
Secretary of Agriculture.

WASHINGTON, D. C., *June 16, 1909.*